

REMARKS

In the Office Action, the Examiner noted receipt of the Request for Continued Examination, dated July 28, 2005. Applicants thank the Examiner for so noting.

In the Request for Continued Examination, Applicants asked that the Amendment previously submitted on December 12, 2003 be entered. The Examiner unilaterally withdrew newly submitted claims 38-61 under 37 CFR 1.142(b) and MPEP §821.03. Although Applicants do not agree with the propriety of the withdrawal stemming from the previous restriction requirement, in an effort to speed prosecution of this application to allowance, Applicants elect to prosecute the invention as set forth in claims 1-6 and 8-22. Accordingly, Applicants have withdrawn claims 38-61 without prejudice to their assertion in a timely filed divisional application. Additionally, claim 17 has been amended to correct a typographical error.

Turning to substantive matters, the Examiner rejected claims 1-6 and 8-22 under 35 U.S.C. 103(a) as being unpatentable over Ludwig et al. (U.S. Patent No. 5,427,798; “Ludwig” or “the Ludwig reference”) and Baker et al. (U.S. Patent No. RE33,994; “Baker” or “the Baker reference”). Applicants respectfully submit that it would not be obvious to one of ordinary skill in the art to combine the teachings of Ludwig with the disclosure of Baker.

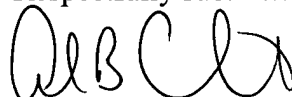
More particularly, there is no teaching or disclosure in the Ludwig reference that would cause it to be combined with the Baker reference. As the Examiner states, Baker discloses a controlled release formulation comprising ethyl cellulose and bupropion (the Examiner cited Col. 3, line 5, however this cites to the phrase “DETAILED DESCRIPTION OF THE”; Applicants believe the Examiner meant to cite Col. 3, line 55). However, Baker states that the ethyl cellulose is used “for forming the film *coating*” that encompasses the composition. (Col. 3, line 47) (emphasis added). Baker teaches that, to be effective, the ethyl cellulose must be coated onto the composition in a thickness of from 10 to 500 μm . (Col. 4, lines 1-2). Ludwig teaches that the

ingredient that controls drug release rate, hydroxypropyl methylcellulose, must be *blended* with (not *coated* onto) the bupropion hydrochloride. (Col. 2, lines 1-3 and 42-43). There is no teaching in Baker that its drug release rate controller (ethyl cellulose) can be used in any way other than as a coating. The whole purpose of Baker is to form an osmotic system and not the hydrophilic matrix system of Ludwig. Therefore, since Ludwig requires that its drug release rate controller be used as part of a blend (and there is no teaching by Baker that ethyl cellulose can be used as part of a blend, rather than as a coating), it would not be obvious to one of ordinary skill in the art to combine the teachings of Baker with the disclosure of Ludwig.

However, even if it were obvious to combine the Ludwig reference with the Baker reference (which Applicants do not concede), that which Applicants regard as the invention still would not be created. As discussed above, Ludwig requires a blending of the release rate controller, whereas Baker requires a coating. Therefore, if the two references were combined, one would create a composition that is both blended with *and* coated with a release rate controller. Applicants' claims do not recite any such combination. Therefore, Applicants respectfully request removal of this ground of rejection.

Based on the above, Applicants respectfully submit that the claims of the present invention are in proper form for allowance. Favorable consideration and early allowance are therefore respectfully requested and earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Alan B. Clement', written in a cursive style.

Alan B. Clement

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